In the Supreme Court of the United States

OCTOBER TERM, 1969

No. 1111

RANJEL, ET AL., PETITIONERS

v.

CITY OF LANSING, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES AS AMICUS CURIAE

The United States submits this memorandum in support of the petition for a writ of certiorari.

The subject matter of the litigation is the enjoining of a proposed referendum which would repeal a city ordinance authorizing the construction of privately-built, but publicly-assisted, low-rent housing to be occupied largely by black and Mexican-American citizens in a predominantly white area of a city in which there is extensive residential segregation. The petition presents for resolution by this Court competing interests: the elimination of segregation in housing and the concentration of inner-city black and Mexican-American residents in urban ghettos,

377-685—70

on the one hand, and the right of citizens to direct participation in governmental decision-making, on the other. The difficulty of this and similar issues has resulted in conflicting decisions by the lower courts.[1]

The case raises important questions under the Due Process and Equal Protection Clauses of the Fourteenth Amendment, as well as the Supremacy Clause of the Constitution. Most immediately, petitioners' allegation that the referendary power is being invoked as an engine of racial and economic discrimination involves the degree, if any, to which the purpose of a referendum is subject to judicial scrutiny and the weight to be given to the alleged discriminatory effect of proposed state action.[2]

The interest of the United States in a prompt resolution of these issues is substantial. The federal government is committed to a variety of programs directed to the problems of inner-city residents in general[3] and racial discrimination in housing in particular.[4] The general policy of the United States,

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[1] Compare *Dailey* v. *Lawton*, 296 F. Supp. 266 (W.D. Okla.) (appeal pending, No. 291-69, C.A. 10), with *SASSO* v. *Union City* (N.D. Cal., No. 51590, decided January 15, 1970) (appeal pending, No. 25195, C.A. 9). See, also, *Gautreaux* v. *Chicago Housing Authority*, 265 F. Supp. 582 (N.D. Ill.), and *Hicks* v. *Weaver*, 302 F. Supp. 619 (E.D. La.).

[2] See, *e.g.*, *Hunter* v. *Erickson*, 393 U.S. 385; *Reitman* v. *Mulkey*, 387 U.S. 369; *Lucas* v. *Colorado General Assembly*, 377 U.S. 713. Cf. *Spaulding* v. *Blair*, 403 F. 2d 862 (C.A. 4); *Radio Officers* v. *NLRB*, 347 U.S. 17, 45.

[3] *E.g.*, 42 U.S.C. 3301 *et seq.* (model cities); 42 U.S.C. 1450 *et seq.* (urban renewal).

[4] See 42 U.S.C. 3601 *et seq.* (fair housing). Apart from race, the instant petition also challenges the constitutionality of discrimination against the poor on account of their poverty. Cf.

sanctioned by Congress and implemented by the Department of Housing and Urban Development (HUD), has been to favor "well planned, integrated, residential neighborhoods"[5] and an opportunity for poor members of minority races to escape the ghetto.[6] In fiscal year 1969, HUD participated in the financing of construction of over one billion dollars' worth of low-cost housing under programs of this kind. Indeed, the proposed construction in this case is to be financed by HUD and its site has been federally approved. Nor is the importance of the federal policy limited to discrimination in housing alone; residential patterns also significantly affect other problems of grave national concern, including in particular the desegregation of urban schools.[7]

In light of these considerations, we urge that certiorari be granted.

Respectfully submitted.

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FEBRUARY 1970.

Harper v. *Virginia Bd. of Elections*, 383 U.S. 663; *Griffin* v. *Illinois*, 351 U.S. 12; *Hobson* v. *Hansen*, 269 F. Supp. 401 (D.D.C.), affirmed *sub nom. Smuck* v. *Hobson*, 408 F. 2d 175 (C.A.D.C.).

[5] 42 U.S.C. 1441(4).

[6] See *Gautreaux* v. *Chicago Housing Authority*, *supra*. *Hicks* v. *Weaver*, *supra*, and U.S. Department of Housing and Urban Development Low-Rent Housing Handbook (reissued 1969).

[7] Compare *Bell* v. *Gary*, 324 F. 2d 209 (C.A. 7), certiorari denied, 377 U.S. 924, with *Brewer* v. *School Board of the City of Norfolk*, 397 F. 2d 37 (C.A. 4).

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